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THE THOMAS KINKADE COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION – E-FILING

DAVID KAYNE, an individual citizen  
of Georgia,

Plaintiff,

vs.

THE THOMAS KINKADE COMPANY,  
formerly known as MEDIA ARTS  
GROUP, INC., a Delaware Corporation,

Defendant.

Case No. C 07-4721 SI  
Related Case: C 04-00186 SI

**STIPULATION OF WITHDRAWAL  
OF RULE 11 MOTION AND  
[PROPOSED] ORDER TAKING  
CASE MANAGEMENT  
CONFERENCE OFF CALENDAR**

Hearing/CMC Date: March 21, 2008  
Hearing Times: 9:00 a.m.  
CMC Time: 2:00 p.m.  
Courtroom: 10, 19<sup>th</sup> Floor

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1 WHEREAS, defendant THE THOMAS KINKADE COMPANY, formerly  
2 known as MEDIA ARTS GROUP, INC. ("TKC") filed and noticed for hearing on  
3 March 21, 2008 at 9:00 a.m. a motion seeking sanctions under Rule 11 of the  
4 Federal Rules of Civil Procedure against defendant DAVID KAYNE ("Mr. Kayne")  
5 and his counsel; and

6 WHEREAS, a stipulation has been executed by Mr. Kayne and counsel for  
7 TKC whereby it has been agreed that Mr. Kayne's *pro se* appeal of this Court's  
8 Order dismissing Mr. Kayne's claims is to be dismissed by the Ninth Circuit Court  
9 of Appeals so that the appeal is to be abandoned; and

10 WHEREAS, the aforementioned stipulation is in the process of being filed  
11 with the Ninth Circuit Court of Appeals; and

12 WHEREAS, TKC now wishes to dismiss its motion for sanctions under Rule  
13 11 against Mr. Kayne and his counsel,

14 NOW, THEREFORE, it is hereby stipulated as follows by and between TKC  
15 and Mr. Kayne and his undersigned counsel:

16 1. The motion of TKC for sanctions against Mr. Kayne and his counsel,  
17 currently set for hearing on March 21, 2008, is WITHDRAWN.

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2. In the circumstances, parties and their counsel have no further relief to seek from this Court, so that they respectfully request that the Case Management Conference currently set for March 21, 2008 at 2:00 p.m. be VACATED.

Dated: February 29, 2008

Respectfully submitted,

HOLLAND & KNIGHT LLP

McDERMOTT WILL & EMERY LLP

By: Charles L. Coleman, III

By: Charles E. Weir

Attorneys for Plaintiff  
DAVID KAYNE

Attorneys for Defendant  
THE THOMAS KINKADE COMPANY

IT IS SO ORDERED. The Case Management Conference is hereby taken off calendar.

Dated: \_\_\_\_\_

Hon. SUSAN ILLSTON  
UNITED STATES DISTRICT JUDGE